

HOUSE BILL 1052

M2
HB 301/11 – ENV

2lr2473

By: **Delegates Beitzel and Frush**

Introduced and read first time: February 10, 2012

Assigned to: Environmental Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 15, 2012

CHAPTER _____

1 AN ACT concerning

2 ~~Natural Resources – Suspension of Hunting Licenses and Privileges~~
3 Wildlife Poaching Prevention Act

4 FOR the purpose of ~~authorizing the Department of Natural Resources to suspend for~~
5 ~~certain periods of time the hunting license or privileges of a person who is~~
6 ~~convicted of a State or federal hunting violation; requiring the Department to~~
7 ~~suspend for a certain time period the hunting license or privileges of a person~~
8 ~~who receives within a certain time period a second conviction for certain~~
9 ~~hunting violations; authorizing the Department to order that certain persons~~
10 ~~not obtain a hunting license for a certain time period; repealing certain~~
11 ~~provisions of law authorizing the Department to impose a certain fine and~~
12 ~~certain hunting license suspensions for a conviction for certain hunting~~
13 ~~violations; authorizing a court to suspend the hunting license of a person~~
14 ~~convicted of a federal hunting violation and the hunting privileges of a person~~
15 ~~convicted of a State or federal hunting violation; prohibiting a person whose~~
16 ~~hunting license is suspended from hunting or performing certain hunting~~
17 ~~activities anywhere in the State; prohibiting a person whose hunting privileges~~
18 ~~are suspended from hunting, or performing certain activities related to hunting,~~
19 ~~in the State; authorizing the Department to adopt regulations to implement this~~
20 ~~Act; clarifying certain language; defining a certain term repealing certain~~
21 ~~provisions of law that authorize a court to suspend the hunting license or, under~~
22 ~~certain circumstances, privileges of a person who has been convicted of certain~~
23 ~~hunting offenses; repealing certain corresponding standards and prohibited acts~~
24 ~~related to the suspension of a hunting license or hunting privileges; authorizing~~
25 ~~the Department of Natural Resources, in addition to certain other applicable~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 penalties, to suspend for up to a certain period of time the hunting license or
 2 privileges of a person who is convicted of a State or federal hunting violation;
 3 requiring the Department to adopt certain regulations, including regulations
 4 that list the criteria for the suspension of a hunting license or the hunting
 5 privileges of a person; clarifying that a prohibition against hunting during a
 6 period of suspension applies to trapping and pursuing game; establishing
 7 certain grounds for the immediate suspension of a hunting license; establishing
 8 certain timing and hearing requirements before the suspension of a hunting
 9 license or hunting privileges; repealing certain provisions of law authorizing the
 10 Department to impose a certain fine and certain hunting license suspensions for
 11 a conviction for certain hunting violations; stating the intent of the General
 12 Assembly; and generally relating to the suspension of hunting licenses and
 13 privileges in the State.

14 BY repealing and reenacting, with amendments,
 15 Article – Natural Resources
 16 Section 10–205, 10–423, and 10–1101, and ~~10–1108~~
 17 Annotated Code of Maryland
 18 (2007 Replacement Volume and 2011 Supplement)

19 BY repealing
 20 Article – Natural Resources
 21 Section 10–1108
 22 Annotated Code of Maryland
 23 (2007 Replacement Volume and 2011 Supplement)

24 BY adding to
 25 Article – Natural Resources
 26 Section 10–1108
 27 Annotated Code of Maryland
 28 (2007 Replacement Volume and 2011 Supplement)

29 Preamble

30 WHEREAS, The vast majority of sportsmen are conscientious and
 31 conservation-minded, and strictly abide by the wildlife laws of Maryland; and

32 WHEREAS, There are always the insular few sportsmen who blatantly violate
 33 these laws through reckless and selfish poaching; and

34 WHEREAS, The Public Trust Doctrine recognizes that the State has an
 35 affirmative duty to administer, protect, manage, and conserve wildlife; and

36 WHEREAS, The recent slowdown in State revenue has resulted in insufficient
 37 funds being available for the enforcement of Maryland’s wildlife laws, thus
 38 perpetuating wildlife violations on the presumption that apprehension is unlikely to
 39 occur; and

1 (2) For a second or subsequent offense, a fine not exceeding \$2,000,
2 imprisonment not exceeding 1 year, or both [and suspension of the person's hunting
3 license and right to hunt any bird or game animal for a period of time not exceeding 4
4 years].

5 10–1101.

6 (a) For the purpose of this title, each game bird or mammal taken illegally,
7 purchased, offered for purchase, sold, bartered, or exchanged in excess of the bag limit
8 or possessed illegally constitutes a separate offense.

9 (b) Any person who violates any provision of this title is guilty of a
10 misdemeanor. Unless another penalty is specifically provided elsewhere in this title,
11 the person, upon conviction, is subject to a fine not exceeding \$1,500, with costs
12 imposed in the discretion of the court.

13 (c) (1) Unless another penalty is specifically provided elsewhere in this
14 title any person found guilty of a second or subsequent violation of any provision of
15 this title, is subject to a fine not exceeding \$4,000, or imprisonment not exceeding 1
16 year, or both, with costs imposed in the discretion of the court.

17 (2) [In addition, the license under which the person operated in the
18 commission of the violation shall be suspended for 12 months from the date of the
19 second conviction.

20 (3)] For the purpose of this subsection, a second or subsequent violation
21 is a violation which has occurred within 2 years of any prior violation of this title and
22 which arises out of a separate set of circumstances.

23 (d) In addition to any administrative penalty provided in this title, violation
24 of any regulation adopted by any unit within the Department pursuant to the
25 provisions of this title is a misdemeanor and is punishable as provided in subsections
26 (b) and (c) of this section.

27 (e) This section does not apply to a violation of § 10–424(2) of this title.

28 ~~10–1108.~~

29 ~~(a) IN THIS SECTION, “CONVICTION” MEANS:~~

30 ~~(1) A PLEA OR VERDICT OF GUILTY; OR~~

31 ~~(2) AN ACCEPTED PLEA OF NOLO CONTENDERE.~~

1 ~~(B) (1) In addition to any other penalty, a court OR THE DEPARTMENT~~
2 ~~may suspend FOR A PERIOD NOT EXCEEDING 5 YEARS the hunting license OR~~
3 ~~HUNTING PRIVILEGES of any person who is convicted of violating IN THE STATE any~~
4 ~~provision of this title [or], any regulation adopted under this title, [for a period not~~
5 ~~exceeding 5 years] OR ANY COMPARABLE PROVISION OF FEDERAL LAW.~~

6 ~~(2) (i) A court OR THE DEPARTMENT may suspend for not more~~
7 ~~than 1 year the hunting license OR HUNTING PRIVILEGES of a person who is~~
8 ~~convicted of violating THE TRESPASS PROVISIONS OF § 6 402 of the Criminal Law~~
9 ~~Article while carrying a firearm or bow and arrow for the purpose of hunting.~~

10 ~~(ii) When a person not holding a hunting license is convicted of~~
11 ~~violating THE TRESPASS PROVISIONS OF § 6 402 of the Criminal Law Article while~~
12 ~~carrying a firearm or bow and arrow for the purpose of hunting, the court OR THE~~
13 ~~DEPARTMENT may order that the person not obtain a hunting license for a period of~~
14 ~~not more than 1 year.~~

15 ~~(3) (i) FOR THE PURPOSES OF THIS SUBSECTION, A SECOND~~
16 ~~CONVICTION IS A CONVICTION FOR A VIOLATION THAT ARISES OUT OF A~~
17 ~~SEPARATE SET OF CIRCUMSTANCES.~~

18 ~~(ii) THE DEPARTMENT SHALL SUSPEND FOR A MINIMUM OF~~
19 ~~1 YEAR AND A MAXIMUM OF 5 YEARS THE HUNTING LICENSE AND HUNTING~~
20 ~~PRIVILEGES OF A PERSON WHO, IN ANY 12 MONTH PERIOD, RECEIVES A~~
21 ~~SECOND CONVICTION FOR VIOLATIONS OF STATE OR FEDERAL LAW DESCRIBED~~
22 ~~IN PARAGRAPH (1) OF THIS SUBSECTION THAT ARE NOT ADMINISTRATIVE OR~~
23 ~~MINOR IN NATURE AS DETERMINED BY THE DEPARTMENT.~~

24 ~~[(b)](C) If a person whose hunting license is suspended under this section~~
25 ~~passes another hunting safety course after the suspension has expired, the person may~~
26 ~~reapply for and be issued a hunting license.~~

27 ~~[(c)](D) A person whose hunting license [is] OR HUNTING PRIVILEGES~~
28 ~~ARE suspended under this section may not:~~

29 ~~(1) Hunt [on any lands where a hunting license is required], TRAP,~~
30 ~~PURSUE GAME, OR CHASE FOX OR OTHER FURBEARERS ANYWHERE IN THE~~
31 ~~STATE; or~~

32 ~~(2) Purchase or attempt to purchase another hunting license during~~
33 ~~the period of suspension.~~

34 ~~(E) THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT THIS~~
35 ~~SECTION.~~

1 [10-1108.

2 (a) (1) In addition to any other penalty, a court may suspend the hunting
 3 license of any person who is convicted of violating any provision of this title or any
 4 regulation adopted under this title, for a period not exceeding 5 years.

5 (2) (i) A court may suspend for not more than 1 year the hunting
 6 license of a person who is convicted of violating § 6-402 of the Criminal Law Article
 7 while carrying a firearm or bow and arrow for the purpose of hunting.

8 (ii) When a person not holding a hunting license is convicted of
 9 violating § 6-402 of the Criminal Law Article while carrying a firearm or bow and
 10 arrow for the purpose of hunting, the court may order that the person not obtain a
 11 hunting license for a period of not more than 1 year.

12 (b) If a person whose hunting license is suspended under this section passes
 13 another hunting safety course after the suspension has expired, the person may
 14 reapply for and be issued a hunting license.

15 (c) A person whose hunting license is suspended under this section may not:

16 (1) Hunt on any lands where a hunting license is required; or

17 (2) Purchase or attempt to purchase another hunting license during
 18 the period of suspension.]

19 **10-1108.**

20 (A) **IN ADDITION TO ANY OTHER PENALTY PROVIDED BY THIS TITLE,**
 21 **THE DEPARTMENT MAY SUSPEND FOR A PERIOD NOT EXCEEDING 5 YEARS THE**
 22 **HUNTING LICENSE OR HUNTING PRIVILEGES OF A PERSON WHO IS CONVICTED**
 23 **OF A STATE OR FEDERAL HUNTING VIOLATION.**

24 (B) **THE DEPARTMENT SHALL ADOPT REGULATIONS:**

25 (1) **TO IMPLEMENT THIS SECTION; AND**

26 (2) **THAT LIST THE CRITERIA FOR THE SUSPENSION OF A**
 27 **HUNTING LICENSE OR THE HUNTING PRIVILEGES OF A PERSON.**

28 (C) (1) **DURING A PERIOD OF SUSPENSION OF A HUNTING LICENSE**
 29 **OR THE HUNTING PRIVILEGES OF A PERSON IMPOSED BY THE DEPARTMENT,**
 30 **THE PERSON MAY NOT:**

31 (I) **HUNT, TRAP, OR PURSUE GAME IN THE STATE; OR**

1 **(II) PURCHASE OR ATTEMPT TO PURCHASE ANOTHER**
2 **HUNTING LICENSE.**

3 **(2) THE FOLLOWING ARE GROUNDS FOR AN IMMEDIATE**
4 **SUSPENSION OF A HUNTING LICENSE OR HUNTING PRIVILEGES:**

5 **(I) KNOWINGLY MAKING A FALSE STATEMENT IN A LICENSE**
6 **APPLICATION;**

7 **(II) A SECOND CONVICTION FOR VIOLATIONS OCCURRING**
8 **ON SEPARATE DAYS WITHIN ANY 12-MONTH PERIOD FOR VIOLATIONS OF STATE**
9 **OR FEDERAL HUNTING LAW THAT ARE NOT ADMINISTRATIVE OR MINOR IN**
10 **NATURE AS DETERMINED BY THE DEPARTMENT;**

11 **(III) FAILURE TO SUBMIT A REPORT OR REPORT TO A**
12 **CHECKING STATION AS REQUIRED UNDER THIS TITLE OR BY REGULATION; OR**

13 **(IV) FAILURE OF A NONRESIDENT OF THE STATE TO APPEAR**
14 **IN COURT IN ACCORDANCE WITH A CITATION ISSUED BY A NATURAL**
15 **RESOURCES POLICE OFFICER, OR TO ANY OTHER PROCESS ISSUED BY ANY**
16 **COURT OF MARYLAND, FOR A VIOLATION OF THIS TITLE.**

17 **(3) A SUSPENSION IMPOSED IN ACCORDANCE WITH THIS SECTION**
18 **IS IN ADDITION TO ANY OTHER PENALTY AUTHORIZED UNDER THIS TITLE.**

19 **(4) THE DEPARTMENT SHALL INITIATE ANY PROCEEDING TO**
20 **SUSPEND A HUNTING LICENSE OR HUNTING PRIVILEGES UNDER PARAGRAPH**
21 **(2)(II) OF THIS SUBSECTION IMMEDIATELY AFTER THE TIME FOR FILING AN**
22 **APPEAL OF THE SECOND CONVICTION HAS PASSED.**

23 **(5) (I) BEFORE THE SUSPENSION OF A HUNTING LICENSE OR**
24 **HUNTING PRIVILEGES UNDER THIS SECTION, THE DEPARTMENT SHALL NOTIFY**
25 **THE LICENSEE OR PERSON IN WRITING OF THE LICENSEE'S OR PERSON'S RIGHT**
26 **TO A HEARING ON REQUEST.**

27 **(II) IF A LICENSEE OR PERSON SUBMITS A WRITTEN**
28 **REQUEST FOR A HEARING TO THE DEPARTMENT WITHIN 30 DAYS AFTER THE**
29 **DATE THAT THE NOTICE REQUIRED UNDER THIS PARAGRAPH IS MAILED, THE**
30 **DEPARTMENT SHALL:**

31 **1. HOLD A HEARING AFTER PROVIDING AT LEAST 10**
32 **DAYS' NOTICE TO THE LICENSEE OR PERSON; AND**

1 **2. CONDUCT THE HEARING IN ACCORDANCE WITH**
2 **TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.**

3 **(III) THE DEPARTMENT MAY SUSPEND A HUNTING LICENSE**
4 **OR HUNTING PRIVILEGES WITHOUT A HEARING IF:**

5 **1. THE LICENSEE OR PERSON DOES NOT SUBMIT A**
6 **WRITTEN REQUEST FOR A HEARING; OR**

7 **2. THE LICENSEE OR PERSON FAILS TO APPEAR FOR**
8 **A SCHEDULED HEARING FOR WHICH THE DEPARTMENT PROVIDED NOTICE.**

9 SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the
10 General Assembly to recognize and commend the Maryland landowners and managers
11 who provide and support native wildlife habitat, especially the landowners who
12 embrace the principles of quality deer management and manage their land
13 accordingly. The Department of Natural Resources is encouraged to augment the deer
14 management efforts of these landowners by vigorously enforcing the wildlife laws
15 against poachers who violate the public trust, thus helping ensure that the citizens of
16 Maryland who recognize the value of sustainable native wildlife populations will be
17 able to enjoy these resources now and in the future.

18 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 2012.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.